IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE EIGHTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MRS JUSTICE T.MEENA KUMARI

&
THE HON'BLE MR JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO :1001 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/02/2005 in WvMP 3644/04 in WPMP 16017/04 in WP NO : 12585 OF 2004 on the file of the High Court.)

Between:

1 The Chief Executive and Disciplinary Authority Nuclear Fuel Complex, Government of India, Department of Atomic Energy ECIL Post, Hyderabad
2 The Secretary, DAE/Appellate Authority Governemnt of India, Department of Atomic Energy, CSM Marg, Mumbai

..... APPELLANTS

AND

Shri M. Ramesh S/oM. Kodandaram
R/o 9-323/11, Bhagyanagar Colony, Kusaiguda, Hyderabad

.....RESPONDENT

Counsel for the Appellant: MR.A.RAJASHEKAR REDDY (ASST.SOLICITOR GEN.)

Counsel for the Respondents.: MR.T.K.SRIDHAR

The Court made the following :

JUDGMENT: (Per Hon'ble Smt. Justice T. Meena Kumari)

This writ appeal is filed by the appellants aggrieved by the order in WPMP.No.16017 of 2004 and WVMP No.3644 of 2004 in W.P.No.12585 of 2004, under which the learned Single Judge made the order of interim stay absolute subject to condition of compliance of Section 17 (b) of the Industrial Disputes Act

and dismissed the vacate stay petition.

The appellants herein are the writ petitioners. Originally, the writ petition was filed by the writ petitioners seeking a direction in the nature of writ of Certiorari, to quash the award, dated 10.3.2004 in LCID No.71 of 2002 on the file of the Central Government Industrial Tribunal-Cum-Labour Court, Hyderabad. While admitting the writ petition on 21.7.2004, the learned Single Judge has granted interim suspension of operation of the award impugned. Aggrieved by the same, the respondent filed an application in W.V.M.P.No.3644 of 2004 seeking to vacate order of interim suspension granted by this Court. The learned Single Judge having observed that the condition of compliance of the provisions of Section 17 (b) of the Industrial Disputes Act, 1947 would meet the ends of justice, made the interim suspension absolute subject to compliance of the provisions of Section 17 (b) of the I.D. Act and dismissed the WVMP. Having aggrieved by the same, the present writ appeal has been preferred by the writ petitioners-appellants.

The learned Counsel for the appellants contends that the respondent was a chronic unauthorized absentee from duty and he continued his habit of unauthorized absence from duty though the period of probation was extended by the appellants and therefore, the order of the learned Single Judge as to the compliance of section 17 (b) of the Industrial Disputes Act is liable to be set aside.

The question as to whether the respondent was a chronic unauthorized absentee from duty and whether he is entitled to be reinstated is a matter to be decided in the main writ petition. Since this writ appeal is preferred against an interlocutory order in the main writ petition and all the questions that have been raised before this Court, touch the very merits of the main writ petition, without expressing any opinion on the merits of the case, We feel it is just and proper to direct the Registry to post the writ petition for final hearing.

Accordingly, the writ appeal is disposed of. No order as to costs.

Post the Writ petition for final hearing immediately after Dasara Vacation.

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Justice T. Meena Kumari

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Justice P. Lakshmana Reddy

Dated: 08.06.2005

Nn/Gurc.

Copy to:

1 The Chief Executive and Disciplinary Authority Nuclear Fuel Complex, Government of India, Department of Atomic Energy ECIL Post, Hyderabad
2 The Secretary, DAE/Appellate Authority Governemnt of India, Department of Atomic Energy, CSM Marg, Mumbai

3. One Copy to Section Officer, Writ Filing Section, High Court of A.P., Hyderabad.

4. Two C.D. copies.

5. The Section Officer, Posting Section, High Court of A.P., Hyderabad.